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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,545	12/19/2003	Antonio Mugica	001-275	1544
29569	7590	02/28/2006	EXAMINER	
JEFFREY FURR 253 N. MAIN STREET JOHNSTOWN, OH 43031			LEE, SEUNG H	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 02/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

EK

Office Action Summary

Application No.

10/707,545

Applicant(s)

MUGICA ET AL.

Examiner

Seung H. Lee

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Receipt is acknowledged of the response filed on 08 December 2005, which has been entered in the file. Claims 21-39 are pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 21, 23-25, 27, and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by Warther (US 6,779,727, of record).

Re claim 21: Warther teaches a voter ballot (10) comprising data or election choices are displayed on the flat surface as shown in figures 1 and 2 wherein the data is displayed and is readable by the voter and scanable by the barcode reader serving as an electronic device reader (see figs. 1-2; col. 1, line 48- col. 3, line 5),

Re claims 23 and 24: Data of the ballot includes political office (14) in question and respective candidates names (20, 30, 40, 50) in answers respectively,

Re claim 25: A code 128 is used for identifying each candidate and office wherein the code 128 is well known one-dimensional code,

Re claims 27 and 28: The ballot is paper document also serving as a wear-and tear-resistant material for rescanning in event of tempering of the ballot (col. 2, lines 51-56).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 22 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Warther in view of Kucharczyk (US 6,460,770).

The teachings of Warther have been discussed above.

Although, Warther teaches the ballot comprising barcodes and scanner for selecting his/her election choices, he fails to particularly teach that the ballot comprises a two dimensional code and the code is readable by the optical scanning means.

However, Kucharczyk teaches that the optical scanner for reading two-dimensional barcode (see col. 1, lines 11-21).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Kucharczyk to the teachings of Warther in order to provide more information by encoding information using the two-dimensional barcode compared to that of the one-dimensional barcode respectively.

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Moreover, such modification (i.e., reading barcode with the optical scanner) is a well known in the art at the time the invention was made to scan the one or two-dimensional barcode.

6. Claims 29-36 and 38-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Warther in view of Boram (US 4,641,240, of record).

The teachings of Warther have been discussed above.

Although, Warther teaches the ballot comprising barcodes and scanner for selecting his/her election choices, he fails to particularly teach that the electronic voting device comprising a chassis, communication means, data transmission means.

However, Boram teaches an electronic voting system comprising a barcode scanner device (30) serving as an electronic voting device having as a chassis with an optical scanning means (not shown) for reading identifier or barcodes indicating names of the candidates' office (106) and name of candidate (108) affixed/printed on ballot, the scanner also comprising data transmission means (not shown) for transmitting the read/scanned off the ballot to an external system or computer (20) via the cable as shown in figure 1, wherein the barcode scanner device is designed to hold by hand of user, the computer is a part of an electronic voting system with communication means (not shown) for establishing a communication channel with the scanner via the cable, the scanner having a trigger for activating the scanner wherein the trigger serves as an activation button in which the trigger is activated whenever the user wish to scan the ballot, also Boram suggest that the absentee ballots can be used for inputting election

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data in case of breakage of an electronic voting machines (10), the computer totalize the election results (see Abstract; figs. 1 and 7; col. 3, line 32-col. 5, line 46; col. 9, lines 15-59).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the voting system of Boram with the teachings of Warther in order to verify the his/her choices if needed using the barcodes provided therewith.

7. Claims 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Warther as modified by Boram, and further in view of Kucharczyk.

The teachings of Warther/Boram have been discussed above.

Although, Warther/Boram teaches the ballot comprising barcodes and scanner for selecting his/her election choices, he fails to particularly teach that the ballot comprises a two dimensional code.

However, Kucharczyk teaches that the optical scanner for reading two-dimensional barcode (see col. 1, lines 11-21).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Kucharczyk to the teachings of Warther in order to provide more information by encoding information using the two-dimensional barcode compared to that of the one-dimensional barcode respectively.

Response to Arguments

8. Applicant's arguments with respect to claims 21-39 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion


9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Seung H. Lee whose telephone number is (571) 272-2401. The examiner can normally be reached on Monday-Friday, 7:30 AM- 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Seung H. Lee
Art Unit 2986
February 10, 2006